

Assembly Bill No. 873

Passed the Assembly August 30, 2016

Chief Clerk of the Assembly

Passed the Senate August 24, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend, repeal, and add Section 9880.1 of the Business and Professions Code, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

AB 873, Jones. Automotive repair.

Existing law, the Automotive Repair Act, the violation of which is a crime, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. Existing law regulates the business of automotive repair and makes it unlawful for any person to be an automotive repair dealer unless registered with the bureau. Existing law defines an automotive repair dealer and an automotive technician as persons who, among other things, repair motor vehicles.

Existing law defines the “repair of motor vehicles” to mean all maintenance of, and repairs to, motor vehicles, except repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor services.

Existing law defines “automotive technician” as a dealer, or a person employed by a dealer, who performs maintenance, diagnostics, repair, removal or installation of specified integral automotive components, but excluding minor services, as set forth above.

This bill would require the director to adopt regulations prior to January 1, 2018, defining “minor services” for these purposes.

This bill would, until January 1, 2018, include installation of propulsive batteries in the definition of “repair of motor vehicles.”

This bill, commencing January 1, 2018, would recast the definition of “repair of motor vehicles” to delete the listing of the various types of excluded minor services and to specify that minor services do not include the changing of propulsive batteries, and also would exclude roadside services, as defined. The bill would similarly recast the definition of “automotive technician” to delete these references and to delete provisions describing the specific work to be performed by an automotive technician. The bill, commencing January 1, 2018, would include the services performed by an operator of a tow truck owned or operated by a

person or entity enrolled in the Basic Inspection of Terminals program, as specified, in the definition of “roadside services.”

This bill would provide that the regulations adopted by the director, prior to January 1, 2018, defining “minor services” continue in effect on and after January 1, 2018.

Because the failure of a person installing propulsive batteries to register as a repair dealer or technician with the bureau would constitute a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would make the operation of its provisions contingent upon the enactment of SB 778 of the 2015–16 Regular Session.

The people of the State of California do enact as follows:

SECTION 1. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following definitions apply for the purposes of this chapter:

(a) “Automotive repair dealer” means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) “Chief” means the Chief of the Bureau of Automotive Repair.

(c) “Bureau” means the Bureau of Automotive Repair.

(d) “Motor vehicle” means a passenger vehicle required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(e) “Repair of motor vehicles” means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer including automotive body repair work, but excluding those repairs made pursuant to a commercial business agreement and also excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, except propulsive batteries,

windshield wiper blades and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the director, by regulation, determines are customarily performed by gasoline service stations.

No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

(f) “Person” includes firm, partnership, association, limited liability company, or corporation.

(g) An “automotive technician” is an employee of an automotive repair dealer or is that dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, diagnostics, repair, removal, or installation of any integral component parts of an engine, driveline, chassis, or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, except propulsive batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(h) “Director” means the Director of Consumer Affairs.

(i) “Commercial business agreement” means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

(j) “Customer” means the person presenting a motor vehicle for repair and authorizing the repairs to that motor vehicle. “Customer” shall not mean the automotive repair dealer providing the repair services or an insurer involved in a claim that includes the motor vehicle being repaired or an employee or agent or a person acting on behalf of the dealer or insurer.

(k) Prior to January 1, 2018, the director shall adopt comprehensive regulations defining “minor services” as used in this section.

(l) This section shall remain in effect only until January 1, 2018.

SEC. 2. Section 9880.1 is added to the Business and Professions Code, to read:

9880.1. The following definitions apply for the purposes of this chapter:

(a) “Automotive repair dealer” means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) “Chief” means the Chief of the Bureau of Automotive Repair.

(c) “Bureau” means the Bureau of Automotive Repair.

(d) “Motor vehicle” means a passenger vehicle required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(e) (1) “Repair of motor vehicles” means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer including automotive body repair work, but excluding those repairs made pursuant to a commercial business agreement, minor services as determined through regulations adopted by the director, and roadside services.

(2) No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation. Minor services shall not include the changing of propulsive batteries.

(f) “Person” includes firm, partnership, association, limited liability company, or corporation.

(g) An “automotive technician” is an employee of an automotive repair dealer or is that dealer, who for salary or wage repairs motor vehicles as set forth in subdivision (e).

(h) “Director” means the Director of Consumer Affairs.

(i) “Commercial business agreement” means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement

contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

(j) “Roadside services” means the services performed upon a motor vehicle for the purpose of transporting the vehicle or to permit it to be operated under its own power, by or on behalf of a motor club holding a certificate of authority pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code or by an operator of a tow truck, as defined in Section 615 of the Vehicle Code, that is owned or operated by a person or entity who possesses a valid motor carrier permit, as described in Section 34620 of the Vehicle Code, and is enrolled in the Basic Inspection of Terminals program, as described in Section 34501.12 of the Vehicle Code.

(k) “Customer” means the person presenting a motor vehicle for repair and authorizing the repairs to that motor vehicle. “Customer” shall not mean the automotive repair dealer providing the repair services or an insurer involved in a claim that includes the motor vehicle being repaired or an employee or agent or a person acting on behalf of the dealer or insurer.

(l) The regulations adopted by the director, prior to January 1, 2018, defining “minor services” for the purposes of this section shall continue in effect on and after January 1, 2018. The director may, thereafter, amend or repeal those regulations, as he or she deems necessary and consistent with this chapter.

(m) This section shall become operative January 1, 2018.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act shall become operative only if Senate Bill 778 of the 2015–16 Regular Session, relating to professions and

vocations, is enacted and becomes effective on or before January 1, 2017.

Approved _____, 2016

Governor